NOTE: This order is nonprecedential.

# United States Court of Appeals for the Federal Circuit

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**ILLUMINA, INC., ILLUMINA CAMBRIDGE LTD.,**
*Plaintiffs-Appellees*

**v.**

**QIAGEN, N.V., QIAGEN GMBH, QIAGEN GAITHERSBURG, INC., QIAGEN SCIENCES, LLC, QIAGEN INC. (USA), QIAGEN REDWOOD CITY, INC., INTELLIGENT BIO-SYSTEMS, INC.,**
*Defendants-Appellants*

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2016-2709

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Appeal from the United States District Court for the Northern District of California in No. 3:16-cv-02788-WHA, Judge William H. Alsup.

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**ON MOTION**

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Before DYK, O'MALLEY, and WALLACH, *Circuit Judges*.

O'MALLEY, *Circuit Judge*.

**O R D E R**

Appellants QIAGEN, N.V. *et al*. move to stay, pending this appeal, the preliminary injunction issued by the

United States District Court for the Northern District of California. Appellees Illumina, Inc. *et al.* oppose the motion.

Rule 8(a)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant a stay of an injunction pending appeal. Our determination is governed by four factors, the first two of which are the most critical: (1) whether the movant has made a strong showing of likelihood of success on the merits; (2) whether the movant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *See Nken v. Holder*, 556 U.S. 418, 434 (2009).

Based on the papers submitted by the parties and without prejudicing the ultimate disposition of this case by a merits panel, we conclude that appellants have not established that a stay of the preliminary injunction pending appeal is warranted here.

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

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